

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971015246-7293-02; I.D. 051498C]

Fisheries of the Northeastern United States; Scup Fisheries; Rescission of 1998 Summer Period Scup Fisheries Closures in Delaware, New Hampshire, Maryland, and Massachusetts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rescission of closures.

SUMMARY: NMFS issues this notification announcing the rescission of closures previously issued for the Delaware, New Hampshire, Massachusetts, and Maryland Summer period scup fisheries for 1998. This rescission is in compliance with an April 27, 1998, Order of the United States District Court for Massachusetts (Court), which voided state-by-state allocation of the Summer period commercial scup fishing quota. The public is advised that landings are allowed for the Summer period in Delaware, New Hampshire, Maryland, and Massachusetts and that the quota is being administered on a coastwide basis.

DATES: Effective May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978-281-9221.

SUPPLEMENTARY INFORMATION: NMFS, in compliance with regulations found at 50 CFR 648.120, closed the 1998 scup Summer period commercial fisheries of Delaware and New Hampshire (62 FR 66304, December 18, 1997), Massachusetts (63 FR 3478, January 23, 1998), and Maryland (63 FR 23227, April 28, 1998) after determining through quota adjustments that these States had used their entire available Summer period commercial scup quota. These closures were to be effective May 1, 1998, through October 31, 1998.

In response to a lawsuit filed by the Commonwealth of Massachusetts, the Court, on April 27, 1998, ordered that the state-by-state allocation system for the summer commercial scup fishery, as codified in 50 CFR 648.120, is void. Since the state closures were triggered by the state-by-state allocation system required under 50 CFR 648.120, the basis for closing these fisheries is removed, and the closures are rescinded. The 1998 Summer period quota of 1,780,794 lb (807,755 kg) will be administered on a coastwide basis.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 15, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 09-302051-8119-02; I.D. 021198B]

RIN 0648-AK78

Fisheries of the Northeastern United States; Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1998 Summer Flounder, Scup, and Black Sea Bass Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the FMP for the Summer Flounder, Scup, and Black Sea Bass Fisheries. This rule implements a possession limit of eight fish per person and a minimum fish size of 15 inches (38 cm) for the 1998 summer flounder recreational fishery; a minimum fish size of 10 inches (25.4 cm) and an August 1 through August 15 seasonal closure for the 1998 black sea bass recreational fishery; and no change in the current regulations for the 1998 scup recreational fishery. The intent of this rule is to comply with the regulations implementing the FMP for the fisheries that require NMFS to implement measures for the upcoming fishing year that will prevent overfishing of these resources.

DATES: Effective June 22, 1998.

ADDRESSES: Copies of the Environmental Assessment prepared for the 1998 summer flounder, scup, and black sea bass specifications and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901-6790.

FOR FURTHER INFORMATION CONTACT:

David M. Gouveia, Fishery Management Specialist, (978) 281-9280.

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. Implementing regulations for the fishery are found at 50 CFR part 648.

Sections 648.100, 648.120, and 648.140 outline the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder, scup, and black sea bass fisheries. Pursuant to these sections, the Administrator, Northeast Region, NMFS, implements measures for the fishing year to ensure achievement of the fishing mortality rate specified in the FMP. This document announces the following measures pertaining to the recreational fishery, which are unchanged from the proposed measures that were published in the **Federal Register** on March 17, 1998 (63 FR 13208): (1) An individual possession limit of eight fish per person and a minimum fish size of 15 inches (38 cm) for the 1998 summer flounder recreational fishery; (2) a minimum fish size of 10 inches (25.4 cm) and an August 1 through August 15 seasonal closure for the 1998 black sea bass recreational fishery; and (3) no-change in the current regulations for the 1998 scup recreational fishery (a minimum fish size of 7 inches (17.78 cm)). The preamble to the proposed rule provided background concerning the development of these measures and that information is not repeated here.

In addition to these measures, the Council and Commission considered measures to reduce discard mortality associated with the recreational fishery. Discard mortality was addressed for the commercial fishery by requiring each state to establish a 15 percent commercial quota set aside for a bycatch fishery. The Council intended to recommend a recreational hook requirement to address discard mortality in that sector.

However, Commission staff presented the results of a literature review that revealed few available studies available on which to base hook size requirements for summer flounder. Therefore, the Council and Commission took action based on the limited studies available and testimony from fishery participants. During the 1998 fishery,